

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS,  
WESTERN DIVISION**

TEGRANT ALLOYD BRANDS, )  
INC., )  
Plaintiff, ) No. 08 C 50041  
v. ) Judge Kapala  
THE MERCHANT OF TENNIS, ) Magistrate Judge Mahoney  
INC. d/b/a U.S. MERCHANTS, )  
Defendant. )

**DEFENDANT'S MOTION TO DISMISS COUNT II OF THE SECOND AMENDED  
COMPLAINT**

Defendant The Merchant of Tennis, Inc. d/b/a U.S. Merchants, by its attorneys Stephen J. Landes, Alison C. Conlon and Jeremy S. Goldkind of Wildman, Harrold, Allen & Dixon LLP and pursuant to Fed. R. Civ. P. 12(b)(6) and all other applicable rules, moves to dismiss Count II of the Second Amended Complaint. The unjust enrichment claim set forth in Count II is barred as a matter of law by the contract allegations contained in the Second Amended Complaint, as explained more fully in the companion memorandum of law which Defendant incorporates herein by reference.

WHEREFORE, Defendant respectfully requests that the Court dismiss Count II with prejudice and award any other relief deemed just.

s/ Alison C. Conlon

One of the Attorneys  
*d/b/a U.S. Merchant*

*a/b/a U.S. Merchants*

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on June 27, 2008, a true and correct copy of the foregoing **Defendant's Motion to Dismiss Count II of the Second Amended Complaint** was electronically filed with the Clerk of the Court for the Northern District of Illinois using the CM/ECF system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

/s/ Alison C. Conlon  
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